

Executive Summary – Enforcement Matter – Case No. 51443

City of Odessa

RN101614261

Docket No. 2015-1598-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Bob Derrington WWTP, located at 9600 South County Road 1325, Midland County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 4, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$22,112

Amount Deferred for Expedited Settlement: \$4,422

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$17,690

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 12, 2015

Date(s) of NOE(s): September 14, 2015

Executive Summary – Enforcement Matter – Case No. 51443

City of Odessa

RN101614261

Docket No. 2015-1598-MWD-E

Violation Information

1. Failed to comply with permitted effluent limitations for ammonia nitrogen and *Escherichia coli* [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010238002, Effluent Limitations and Monitoring Requirements No. 1].
2. Failed to timely submit the 48-Hour Acute Freshwater biomonitoring discharge monitoring report ("DMR") for the quarterly monitoring period ending June 30, 2015 by July 20, 2015 [30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0010238002, Monitoring and Reporting Requirements No. 1 and Biomonitoring Requirements No. 3.b(3)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By September 22, 2015, the Respondent submitted the 48-Hour Acute Freshwater biomonitoring DMR for the quarterly monitoring period ending June 30, 2015.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, update the Facility's operational guidance and conduct employee training to ensure that all self-reporting requirements are properly accomplished, including the timely submittal of quarterly DMRs;
- b. Within 45 days, submit written certification of compliance with a.; and
- c. Within 90 days, submit written certification of compliance with the permitted effluent limits of TPDES Permit No. WQ0010238002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limits.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 51443
City of Odessa
RN101614261
Docket No. 2015-1598-MWD-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Ross Luedtke, Enforcement Division,
Enforcement Team 1, MC 169, (512) 239-3157; Melissa Cordell, Enforcement Division,
MC 219, (512) 239-2483

TCEQ SEP Coordinator: N/A

Respondent: The Honorable David Turner, Mayor, City of Odessa, P.O. Box 4398,
Odessa, Texas 79760

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES Assigned **21-Sep-2015**
PCW **23-Nov-2015** Screening **5-Oct-2015** EPA Due **5-Dec-2015**

RESPONDENT/FACILITY INFORMATION

Respondent **City of Odessa**
Reg. Ent. Ref. No. **RN101614261**
Facility/Site Region **7-Midland** Major/Minor Source **Major**

CASE INFORMATION

Enf./Case ID No. **51443** No. of Violations **3**
Docket No. **2015-1598-MWD-E** Order Type **1660**
Media Program(s) **Water Quality** Government/Non-Profit **Yes**
Multi-Media Enf. Coordinator **Jennifer Graves**
EC's Team **Enforcement Team 1**

Admin. Penalty \$ Limit Minimum **\$0** Maximum **\$25,000**

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 **\$15,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.

Compliance History **45.0%** Adjustment **Subtotals 2, 3, & 7** **\$6,862**

Notes **Enhancement for five months of self-reported effluent violations and one order with denial of liability.**

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes **The Respondent does not meet the culpability criteria.**

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$2,063**
Estimated Cost of Compliance **\$20,275**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal **\$22,112**

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0% Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$22,112**

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty **\$22,112**

DEFERRAL

20.0% Reduction Adjustment **-\$4,422**

Reduces the Final Assessed Penalty by the Indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$17,690

Screening Date 5-Oct-2015

Docket No. 2015-1598-MWD-E

PCW

Respondent City of Odessa

Policy Revision 4 (April 2014)

Case ID No. 51443

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101614261

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	5	25%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 45%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for five months of self-reported effluent violations and one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 45%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 45%

Screening Date 5-Oct-2015

Docket No. 2015-1598-MWD-E

PCW

Respondent City of Odessa

Policy Revision 4 (April 2014)

Case ID No. 51443

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101614261

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010238002, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as documented during a record review conducted on August 12, 2015, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual		x	
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

28 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

One monthly event is recommended for the month of February 2015.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,052

Violation Final Penalty Total \$10,875

This violation Final Assessed Penalty (adjusted for limits) \$10,875

Economic Benefit Worksheet

Respondent City of Odessa
Case ID No. 51443
Reg. Ent. Reference No. RN101614261
Media Water Quality
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$20,000	28-Feb-2015	16-Aug-2016	1.47	\$98	\$1,954	\$2,052
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct an evaluation of the wastewater treatment system to determine the cause of the noncompliance and to make any necessary repairs/adjustments to the Facility. Date required is the initial month of noncompliance. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$20,000

TOTAL

\$2,052

Screening Date 5-Oct-2015
Respondent City of Odessa
Case ID No. 51443

Docket No. 2015-1598-MWD-E

PCW

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101614261

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010238002, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limitations, as documented during a record review conducted on August 12, 2015, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was utilized to evaluate the values for ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. The amounts discharged at time of the violations were insignificant and did not exceed levels protective of human health or the environment.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2

91 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

Two quarterly events are recommended for the quarters containing the months of April, May, and June 2015.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$10,875

This violation Final Assessed Penalty (adjusted for limits) \$10,875

Economic Benefit Worksheet

Respondent City of Odessa
Case ID No. 51443
Reg. Ent. Reference No. RN101614261
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/Construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit for Violation No. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/Equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 5-Oct-2015

Docket No. 2015-1598-MWD-E

PCW

Respondent City of Odessa

Policy Revision 4 (April 2014)

Case ID No. 51443

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101614261

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (17) and TPDES Permit No. WQ0010238002, Monitoring and Reporting Requirements No. 1 and Biomonitoring Requirements No. 3.b(3)

Violation Description

Failed to timely submit the 48-Hour Acute Freshwater biomonitoring discharge monitoring report ("DMR") for the quarterly monitoring period ending June 30, 2015 by July 20, 2015, as documented during a record review conducted on August 12, 2015.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			x

Percent 1.0%

Matrix Notes

At least 70% of the rule requirements were met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

77 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$363

This violation Final Assessed Penalty (adjusted for limits) \$363

Economic Benefit Worksheet

Respondent City of Odessa
Case ID No. 51443
Reg. Ent. Reference No. RN101614261
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	12-Aug-2015	2-Jul-2016	0.89	\$11	n/a	\$11
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25	20-Jul-2015	22-Sep-2015	0.18	\$0	n/a	\$0

Notes for DELAYED costs

The other cost is the estimated cost to prepare and submit the DMR. Date required is the date the DMR was due. Final date is the date the DMR was submitted. The training/sampling cost is the estimated cost to update the Facility's operational guidance and conduct employee training to ensure that all self-reporting requirements are properly accomplished, including the timely submittal of DMRs. Date required is the record review date. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$275

TOTAL

\$11

EFFLUENT VIOLATION TABLE				
City of Odessa				
TPDES Permit No. WQ0010238002				
Docket No. 2015-1598-MWD-E				
Months	<i>E. coli</i> Daily Max.	NH ₃ -N Daily Avg. Conc.	NH ₃ -N Daily Max.	NH ₃ -N Daily Avg. Loading
	Limit = 394 CFU/100 mL	Limit = 3 mg/L	Limit = 10 mg/L	Limit = 318 lbs/day
February 2015	1,553	c	c	c
April 2015	c	9.23	12.1	359.08
May 2015	c	4.42	c	c
June 2015	c	6.74	13.9	c
<i>E. coli</i> = <i>Escherichia coli</i> NH ₃ -N = ammonia nitrogen CFU/100 mL = colony-forming units per 100 milliliters mg/L = milligrams per liter lbs/day = pounds per day			Max. = Maximum Avg. = Average Conc. = Concentration c = compliant	



Compliance History Report

PUBLISHED Compliance History Report for CN600338354, RN101614261, Rating Year 2015 which Includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN600338354, City of Odessa

Classification: SATISFACTORY

Rating: 6.97

Regulated Entity: RN101614261, BOB DERRINGTON WWTP

Classification: SATISFACTORY

Rating: 2.41

Complexity Points: 9

Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: 9600 South County Road 1325 in Midland County, Texas

TCEQ Region: REGION 07 - MIDLAND

ID Number(s):

WASTEWATER AUTHORIZATION R10238002

WASTEWATER AUTHORIZATION R10238002A

WASTEWATER PERMIT WQ0010238002

WASTEWATER EPA ID TX0072800

PRETREATMENT EPA ID TX0072800000

PRETREATMENT PERMIT WQ0010238002

WASTEWATER LICENSING LICENSE WQ0010238002

TIRES REGISTRATION 683

Compliance History Period: September 01, 2010 to August 31, 2015

Rating Year: 2015

Rating Date: 09/01/2015

Date Compliance History Report Prepared: November 23, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 23, 2010 to November 23, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jennifer Graves

Phone: (956) 430-6023

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 06/03/2013 ADMINORDER 2012-1626-MWD-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Eff. Lim. & Mon. Req. No. 1 PERMIT
Description: Failed to comply with permitted effluent limitations.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	December 15, 2010	(884671)
Item 2	December 16, 2010	(884880)
Item 3	December 17, 2010	(897234)
Item 4	January 17, 2011	(903137)
Item 5	February 23, 2011	(910057)
Item 6	March 18, 2011	(917257)
Item 7	May 02, 2011	(914975)
Item 8	May 19, 2011	(938950)
Item 9	June 17, 2011	(946330)
Item 10	July 19, 2011	(953609)
Item 11	August 18, 2011	(949390)
Item 12	October 20, 2011	(972295)
Item 13	November 18, 2011	(972294)
Item 14	December 19, 2011	(985265)
Item 15	January 20, 2012	(991545)
Item 16	February 17, 2012	(998892)
Item 17	March 06, 2012	(990101)
Item 18	March 19, 2012	(1004419)
Item 19	June 12, 2012	(1013216)
Item 20	June 15, 2012	(1013587)
Item 21	July 03, 2012	(1015682)
Item 22	July 19, 2012	(1032493)
Item 23	August 21, 2012	(1038916)
Item 24	September 14, 2012	(1047828)
Item 25	January 16, 2013	(1081026)
Item 26	March 19, 2013	(1090289)
Item 27	August 30, 2013	(1125949)
Item 28	September 20, 2013	(1130501)
Item 29	October 16, 2013	(1136269)
Item 30	November 05, 2013	(1128935)
Item 31	November 07, 2013	(1129222)
Item 32	November 15, 2013	(1141650)
Item 33	December 19, 2013	(1148106)
Item 34	January 09, 2014	(1140481)
Item 35	January 21, 2014	(1154180)
Item 36	March 19, 2014	(1168142)
Item 37	April 18, 2014	(1175301)
Item 38	May 01, 2014	(1165264)
Item 39	May 19, 2014	(1181493)
Item 40	May 20, 2014	(1200093)
Item 41	June 17, 2014	(1188387)
Item 42	August 19, 2014	(1232104)
Item 43	September 05, 2014	(1193213)
Item 44	September 15, 2014	(1116250)
Item 45	September 19, 2014	(1200094)
Item 46	October 17, 2014	(1213171)
Item 47	November 03, 2014	(1205066)
Item 48	November 21, 2014	(1219427)
Item 49	December 17, 2014	(1225211)
Item 50	February 20, 2015	(1243224)
Item 51	April 20, 2015	(1256471)
Item 52	September 21, 2015	(1291212)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	02/28/2015	(1249588)	CN600338354
	Self Report?	YES		Classification: Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		

Published Compliance History Report for CN600338354, RN101614261, Rating Year 2015 which includes Compliance History (CH) components from November 23, 2010, through November 23, 2015.

	Description:	30 TAC Chapter 305, SubChapter F 305.125(1) Failure to meet the limit for one or more permit parameter		
2	Date:	04/30/2015 (1263206)	CN600338354	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
3	Date:	05/31/2015 (1270349)	CN600338354	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
4	Date:	06/30/2015 (1277879)	CN600338354	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
5	Date:	07/31/2015 (1284056)	CN600338354	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF ODESSA
RN101614261**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2015-1598-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Odessa ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located at 9600 South County Road 1325 in Midland County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 19, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Two Thousand One Hundred Twelve Dollars (\$22,112) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seventeen Thousand Six Hundred Ninety Dollars (\$17,690) of the administrative penalty and Four Thousand Four

Hundred Twenty-Two Dollars (\$4,422) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that by September 22, 2015, the Respondent submitted the 48-Hour Acute Freshwater biomonitoring discharge monitoring report ("DMR") for the quarterly monitoring period ending June 30, 2015.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010238002, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on August 12, 2015, and as shown in the table below:

EFFLUENT VIOLATION TABLE				
Months	<i>E. coli</i> Daily Max.	NH ₃ -N Daily Avg. Conc.	NH ₃ -N Daily Max.	NH ₃ -N Daily Avg. Loading
	Limit = 394 CFU/100 mL	Limit = 3 mg/L	Limit = 10 mg/L	Limit = 318 lbs/day
February 2015	1,553	c	c	c
April 2015	c	9.23	12.1	359.08
May 2015	c	4.42	c	c
June 2015	c	6.74	13.9	c
<i>E. coli</i> = <i>Escherichia coli</i> NH ₃ -N = ammonia nitrogen CFU/100 mL = colony-forming units per 100 milliliters mg/L = milligrams per liter lbs/day = pounds per day Max. = Maximum Avg. = Average Conc. = Concentration c = compliant				

- Failed to timely submit the 48-Hour Acute Freshwater biomonitoring DMR for the quarterly monitoring period ending June 30, 2015 by July 20, 2015, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17), and TPDES Permit No. WQ0010238002, Monitoring and Reporting Requirements No. 1 and Biomonitoring Requirements No. 3.b(3), as documented during a record review conducted on August 12, 2015.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

- It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Odessa, Docket No. 2015-1598-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that all self-reporting requirements are properly accomplished, including the timely submittal of quarterly DMRs, as required by TPDES Permit No. WQ0010238002, Biomonitoring Requirements No. 3.b(3).
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a, in accordance with Ordering Provision No. 2.d.
 - c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limits of TPDES Permit No. WQ0010238002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limits. The written certification shall be written in accordance with Ordering Provision No. 2.d below.
 - d. The written certifications of compliance required by Ordering Provisions Nos. 2.b and 2.c shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public, and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certifications shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with copies to:

Water Section Manager
Midland Regional Office
Texas Commission on Environmental Quality
9900 W. IH-20, Ste. 100
Midland, Texas 79706

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and

may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date


For the Executive Director

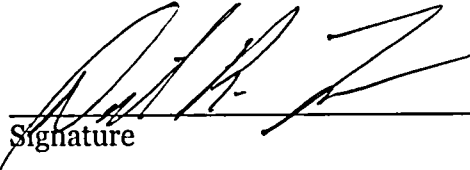
4/29/16
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

January 26, 2016
Date

David R. Turner
Name (Printed or typed)
Authorized Representative of
City of Odessa

Mayor
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.